

Notice of Allowability

Application No.

10/584,810

Examiner

Zachariah Lucas

Applicant(s)

GRAHAM ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of October 9, 2007.
2. ☒ The allowed claim(s) is/are 1, 2, 7, 8, 13, 14, 15, and 18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 6/28/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 10/24/07
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Claims 1, 2, 7, 8, 13, 14, 15, and 18 are pending in the application.

Election/Restrictions

2. Applicant's election of Group I in the reply filed on October 9, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. The claims drawn to the non-elected inventions have been cancelled from the application.
4. Claims 1, 2, 7, 8, 13, 14, 15, and 18 are allowed.

Information Disclosure Statement

5. The information disclosure statement (IDS) submitted on June 28, 2006, is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

It is noted that only four pages of reference W of the IDS were submitted for consideration. Thus, the reference has been considered only to the extent of the submitted pages.

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

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1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Melissa B. Wenk on October 24, 2007.

The application has been amended as follows:

In the specification:

the phrase - - RNA purification kit- - has been inserted after the phrase "QIAGEN RNeasy Mini KIT" in line 4 of page 8.

In the claims:

Claims 1, 7, and 8 have been amended to read as follows:

1. A purified polypeptide comprising SEQ ID NO: 1.
7. A recombinant nucleic acid comprising a nucleotide sequence encoding SEQ ID NO: 1.
8. The nucleic acid of claim 7, wherein the nucleotide sequence encodes an amino acid sequence consisting of SEQ ID NO: 1.

Claim 15 has been amended to delete the phrase "encoded by" in line 4 of the claim.

Claim 18 has been amended to delete the phrase "encoded by" in line 2 of the claim.

The amendment to the specification is to provide generic terminology to a product referred to by trade name.

The amendments to claims 1 and 7 are to limit the claimed inventions to embodiments wherein invention comprises an amino acid comprising, or a nucleic acid encoding, the full length sequence of SEQ ID NO: 1. Claim 8 is amended to make the claim further limiting of claim 7.

Claims 15 and 18 are amended to correct a typographical error, and indicate that the polymerases comprise the amino acid sequence of SEQ ID NO: 1, rather than being encoded by the amino acid sequence of SEQ ID NO: 1.

7. The following is an examiner's statement of reasons for allowance:

The present claims are drawn to an HCV polymerase of SEQ ID NO: 1, or to nucleic acids encoding such, and a method of using the polymerase. SEQ ID NO: 1 is free of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. The following prior art references are made of record and considered pertinent to applicant's disclosure.

Each of the following references teaches an HCV NS5B protein that shares at least some of the amino acid sequence with SEQ ID NO: 1. However, neither reference teaches a protein comprising of the full-length of SEQ ID NO: 1. Lohmann et al., J Virol .71:8416-

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28 (see also, EMBL accession Z97730); and Ferrari et al., J Virol 73: 1649-54 (of record in the June 2006 IDS).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. Lucas/
Patent Examiner, AU 1648